THE HON'BLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION NO.12262 of 2006

DATED: 20.06.2006

Between:
Smt.Shaik Jameela. .. PETITIONER

Versus

Municipal Corporation, Kadapa,
Represented by its Commissioner,
Kadapa District. .. RESPONDENT

WRIT PETITION NO.12262 of 2006

ORDER:

Heard Sri J.Janaki Rami Reddy, learned counsel appearing for the petitioner and Sri Newton, learned Standing Counsel, appearing for Kadapa Municipality. The matter is coming up for admission today.

The Writ Petition is fled for a Writ of Mandamus to declare the impugned letter Roc.No.6066/2005/G1, dated 4.4.2006 issued by the respondent as illegal, arbitrary, unconstitutional, violative of Articles 14, 21 and 300-A of the Constitution of India and consequently direct the respondent-Corporation not to demolish the structures without paying the due compensation of the site as well as structures by initiating Land Acquisition Proceedings and pass such other suitable orders.

The order dated 4.4.2006, which had been impugned, referred to supra reads as hereunder:

“As part of the development of the city, and in view of traffic problem, the Municipal Corporation, Kadapa has taken decision to widen the road from Justice Chennakesava Reddy statue junction to old Bus Stand Junction through Nagarajupeta. This road is proposed to be widened to 60’-00” as per sanctioned master plan of Kadapa, sanctioned in G.O.Ms.No.1078, MA, dated 19.9.1981.

As your property is affected to an extent of 41.81 sq.mts. Hence, you are hereby requested to handover the affected area to Municipal Corporation, Kadapa, U/s.146

of HMC Act, 1955 in public interest, Municipal Corporation, Kadapa, will be paying structural compensation for the affected part of structure and relaxation will be provided in F.S.I. as per G.O.Ms.No.33, MA, dt. 03.02.2001, for further construction proposal in the remaining part of the area".

The main grievance ventilated by the petitioner is that unless due compensation is paid, serious injustice would be caused to the petitioner inasmuch as it was observed that only structural compensation of the affected part of the structure had been specified.

It is needless to say that the respondent-Corporation while initiating demolition activity or otherwise is bound to follow the due procedure even in fixing the reasonable, just and adequate compensation. It is also needless to say that inasmuch as the petitioner is the absolute owner of the property in question, before carrying on any demolition activity, the respondent is bound to follow the procedure. In view of the same, the Writ Petition is disposed of with the following direction:

"The respondent to fix reasonable and just compensation in accordance with law de hors the impugned letter Roc.No.6066/2006/G1, dated 4.4.2006 and also not to carry on any demolition activity in relation to the house of the writ petitioner, the subject matter of the Writ Petition, bearing door No.2/500, admeasuring 660 square yards,

Nagarajupeta Lane, Kadapa Town, Kadapa District, except by following due process of law".

There shall be no order as to costs.

20.06.2006

SSSR

Issue order copy in two days.

(BO)